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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/171151

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 4, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for speech therapy (ST), a hearing was held on February 16, 2016, at Madison, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether the DHCAA correctly denied ST because petitioner receives ST in school.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Written submission of [REDACTED], SLP Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 7-year-old resident of Portage County who receives MA.
2. Petitioner is diagnosed with autism. He receives ST in school working on a number of deficits including articulation, language usage and understanding, and vocabulary.
3. On November 4, 2015, [REDACTED] requested prior authorization for twice weekly St for 13 weeks, PA no. [REDACTED]. The DHCAA denied the request by a letter dated December 21, 2015.

4. The goals in the PA request were to work on interacting with siblings and controlling emotions. The goals were changed from an earlier PA request to remove articulation from the private therapy.

### **DISCUSSION**

Speech and language therapy is an MA-covered service, subject to prior authorization after the first 35 treatment days. Wis. Admin. Code, §DHS 107.18(2). In determining whether to approve such a therapy request, the Bureau employs the generic prior authorization criteria found at §DHS 107.02(3)(e). Those criteria include the requirements that a service be medical necessary, appropriate, and an effective use of available services. Included in the definition of “medically necessary” at §DHS 101.03(96m) are the requirements that services not be duplicative of other services, and that services be cost effective when compared to alternative services accessible to the recipient. When speech therapy is requested for a school age child in addition to therapy provided by the school system, the request must substantiate the medical necessity of the additional therapy as well as the procedure for coordination of the therapies. Prior Authorization Guidelines, Physical, Occupational, and Speech Therapy, Topics 2781 and 2784. It is up to the provider to justify the provision of the service. §DHS 107.02(3)(d)6.

Prior hearing decisions have held consistently that where speech therapy is provided in school, it would not be cost effective for MA to cover private therapy. If the private therapy covers a situation that school therapy does not address, it has been found that the services are not duplicative.

In this case there has not been coordination with school therapy as much as the private therapist reviewing the school plan and trying to pick out items not necessarily covered by the school therapy. The problem, as discussed on page 4 and 5 of Ms. [REDACTED]'s February 5 response, is that the private therapy goals still are similar to the school goals of working with peers and controlling his emotions.

Essentially the goal of this request is to provide petitioner with more ST beyond what the school provides. However, the school district is expected to provide adequate services to meet the child's needs. The whole purpose of the Department's restrictions on private therapy when school therapy is in place is to prevent piling on of therapy services. Thus the DHCAA will allow private therapy for situations school does not or cannot address, but it denies private therapy when it primarily is to provide additional services beyond the school therapy.

The letter from the school therapist is the most telling. For her the difference in the therapies relates to the setting of the therapy, that the private therapy works on the home setting versus the school setting. However, the Department has long held that a school versus home setting is not a basis for approving private therapy as all therapists are trained the same and use the same techniques. See page 9 of Ms. [REDACTED]'s response. I conclude, therefore, that the denial in this case was correct because it is not shown that petitioner has a medical need for additional ST beyond the ST he already receives in school.

### **CONCLUSIONS OF LAW**

The denial of the request for private ST was correct because it is not shown that petitioner has a medical need for additional ST beyond the ST he already receives in school.

**THEREFORE, it is**

**ORDERED**

That the petition for review is hereby dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 29th day of February, 2016

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\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on February 29, 2016.

Division of Health Care Access and Accountability